IN THE HIGH COURT OF BOMBAY AT GOA.

FIRST APPEAL NO.132 OF 2005

1. Special Land Acquisition Officer
(South Goa) Konkan Railway
Corporation Limited,
Amey Guest House,
Davorlim Road,
P.O. Navelim,
Salcete Goa, 403 707.

2. Chief Engineer,
Konkan Railway Corporation Ltd.,
Rawnfond,
near Margao Railway Station,
Margao Goa. ... Appellants.

V/s

Premabai Vishwanath Naik Dessai
Pansulem, Canacona, Goa. ... Respondent.

Mr. E. Afonso, Advocate for the appellants.

Mr. P.A. Kamat, Advocate for the respondent.

CORAM: A.P. LAVANDE, J.

DATE: 4TH MAY, 2005.

ORAL JUDGMENT

Heard Mr. Afonso, for the appellants and Mr. Kamat for the respondent.

2. By consent of learned Counsel appearing for the parties, matter is taken for final disposal at admission stage itself, since the issue involved in this appeal is covered by several judgments of this Court passed in connected appeals arising out of the same appeals.

3. The appellants challenge the judgment and award dated 12.9.2003 passed by the Additional District Judge, South Goa, Margao in Land Acquisition No.178/95.

4. By Notification dated 24.7.1991 issued under Section 4 of the Land Acquisition Act (the Act for short) the Government acquired for Konkan Railway Corporation Ltd. large chunks of land situated at Nagorcem, Palolem. Property bearing survey no.56/2 admeasuring 1400 square metres belonging to the respondent Premabai V. Naik Dessai, the original applicant before the reference Court, was part of the acquired land. The said land was paddy field. The Special Land Acquisition Officer by his award dated 9.12.1993 awarded Rs.9/- per square metre for the acquired land. Aggrieved by the said award, the original applicant sought reference under Section 18 of the Land Acquisition Act and claimed compensation of Rs.150/- per square

metre. The reference Court relying upon the Award dated 15.3.1989 (Exhibit AW1/A) which was in respect of acquisition for the proposed approach road to Talpona Galjibag bridge awarded Rs.24/- per square metre in respect of the acquired land after holding that the land belonging to the respondent which was acquired was paddy field. The reference Court granted increase of 10% every year on compounding basis and fixed the compensation in respect of the acquired land at the rate of Rs.24/- per square metre.

5. Mr. Afonso, learned Counsel appearing for the appellants submitted that the reference Court ought not to have relied upon the Award dated 15.3.1989 (Exhibit AW1/A) and that in any case the reference Court ought not to have granted increase of 10% per year since the acquired land was paddy field having no building potential. The learned Counsel further submitted that the original applicant had neither led any evidence of any development during the years preceding Section 4 Notification nor led any evidence to prove that the prices of paddy fields increased by 10% every year.

6. Per contra, Mr. Kamat appearing for the respondents

submitted that the reference Court was absolutely justified in placing reliance on the Award dated 15.3.1989 (Exhibit AW1/A) since it was in respect of the similar lands situated in the close proximity of the acquired land. The learned Counsel further submitted that the Apex Court has consistently held that increase of 10% has to be granted in fixing the market rate.

7. I have considered the submissions made by the learned Counsel appearing for the parties. Since the Award dated 15.3.1989 (Exhibit AW1/A) was in respect of the similar lands, in my opinion, the reference Court was absolutely justified in relying upon the said Award dated 15.3.1989 (Exhibit AW1/A) and fix the market value of the acquired land as on 30.04.1986 at Rs.15/- per square metre which was the market rate fixed in the said Award for paddy fields. In so far as the increase of 10% per year granted by the reference Court, I have already held in a number of connected appeals that having regard to the fact that the acquired land is a paddy field and situated at Nagorcem, Palolem and also having regard to the fact there is absolutely no evidence led about any development around the acquired land during the years preceding Section 4 Notification, increase of 5% and not 10% per year would be justified. Accordingly, by giving

increase of 5% every year the market rate of the acquired land works out to Rs.18.75 per square metre. I deem it appropriate to round it up to Rs.19/- per square metre. Accordingly I hold that the compensation payable in respect of the acquired land is Rs.19/- per square metre. Needless to mention that the respondents are entitled to all the statutory benefits under the Act.

8. In view of the above discussion, the appeal is partly allowed and consequently the Award passed by the Reference Court stands modified accordingly. Having regard to the facts and circumstances of the case, the parties are directed to bear their own costs.

A.P. LAVANDE, J.

ef.